

[1/5/79-Not Submitted] [CF O/A 548]

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THE WHITE HOUSE
WASHINGTON

DF ✓

Date: 5 January 1979

MEMORANDUM

FOR ACTION:

TIM KRAFT
ARNIE MILLER

FOR INFORMATION:

THE VICE PRESIDENT
ZBIG BRZEZINSKI
STU EIZENSTAT
JACK WATSON

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: DUNCAN/CARSWELL/KREPS MEMO, "DIRECTOR OF THE OFFICE
OF GOVERNMENT ETHICS"

1/15 recess appt of Bernhardt
Ruhle. Deere

**YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:**

TIME: 12:00 PM

DAY: MONDAY

DATE: 8 JANUARY 1979

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301

5 January 1979

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

The Ethics in Government Act of 1978 created an Office of Government Ethics headed by a Director to be appointed by you. We regard this as a critical appointment because the new director will be responsible for the initial, precedent-setting series of rulings that will implement the sweeping provisions of the Act. If these rulings are not clear, fair and sensitive to practical impacts, we will be faced with a truly enormous problem in recruiting and retaining during this Administration able people who do not wish to devote their careers solely to government service.

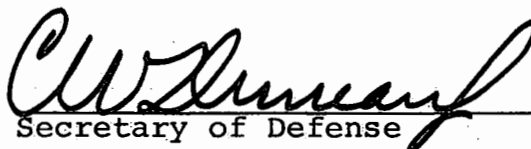
We urge that you consider three sources for potential candidates that we believe could yield a director who would be able to implement the Act in a productive fashion:

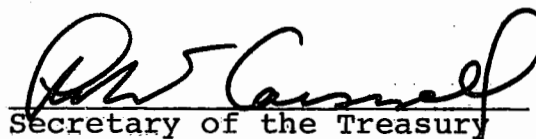
- (1) A recently retired (or less active) distinguished practicing lawyer, with service on a bar association ethics committee. Lewis van Dusen, a former chairman of the ABA's Ethics Committee, a senior partner of the Philadelphia law firm of Drinker, Biddle and Reath, would be an example of this type.
- (2) A distinguished person from the academic world. Murray Schwartz, former Dean of the UCLA Law School, and the author of a leading case book on professional ethics would bring a highly regarded reputation as a thoughtful and practical person to the post. Another example of a possible candidate from this category would be Covey T. Oliver, a just-retired Acting Dean of the University of Pennsylvania Law School, former Ambassador to Colombia, and former Executive Director of the World Bank.

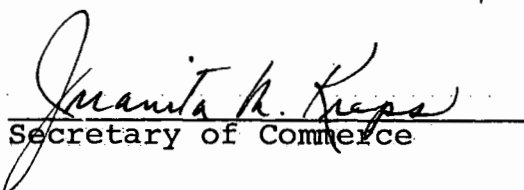
- (3) A recently retired judge. A major problem with this category may be assuring that the retired judge has sufficient energy to do the job.

We are ready to assist in the recruiting process if that would be useful and our General Counsels can help provide high quality staff on a loan basis to assist the new director in the first few critical months that lie ahead.

Respectfully yours,


Secretary of Defense


Secretary of the Treasury


Secretary of Commerce

THE WHITE HOUSE
WASHINGTON

1/5/79

MEMO TO FILE

BOTH THESE MEMOS DEAL WITH
BUDGET ISSUES WHICH HAVE
BEEN RESOLVED. NO NEED
TO GO TO PRESIDENT, PER
JOANNE.

RICK

THE WHITE HOUSE

WASHINGTON

Date: Dec 26, 1978

MEMORANDUM

FOR ACTION:

Stu Eizenstat *w/BC 1/2*
Jim McIntyre *concur*
Charlie Schultze *h c*
Nelson Cruikshank *Strong concur*
(attendant)

FOR INFORMATION:

Vice President
Frank Moore (LesFrancis)
Jack Watson
Alfred Kahn

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Secretary Marshall memo reProposed Changes in
Social Security Benefits

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12 noon

DAY: Thursday

DATE: Dec 28

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

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FYI

LAST DAY FOR ACTION

VANCE

VOORDE

EYES ONLY

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

DEC 22 1978

MEMORANDUM FOR: THE PRESIDENT
FROM: SECRETARY OF LABOR *ear*
SUBJECT: PROPOSED CHANGES IN
SOCIAL SECURITY BENEFITS

I understand that HEW and OMB have jointly proposed a series of measures effecting reductions in certain types of Social Security benefits. These proposals have been designed to be part of your FY 1980 Budget and would reduce Social Security outlays in that and succeeding years.

As a member of the Board of Trustees of the various Social Security Funds, I have been following Social Security developments closely. Regardless of the merit of the new proposals, I am quite concerned about procedures being followed regarding their consideration.

As I am sure you realize, changes in the Social Security law carry important long-range implications affecting many millions of workers who have been contributing to the program. It seems shortsighted to suggest such basic changes in order to achieve short-range budget objectives. Moreover, changes in the Social Security System not only are normally debated within the Administration but also form the subject for discussion with outside interest groups, particularly representatives of workers and employers who are financing the program. I feel sure the current Advisory Council on Social Security, for example, would be available to consider any proposals.

You will recall that your Administration took great pride in the 1977 law which placed the Social Security System on a firm financial foundation for the next 50 years. Measures to now withdraw or reduce Social Security protection would clearly erode the high degree of public confidence in the system which that legislation so recently achieved.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

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THE WHITE HOUSE

WASHINGTON

December 28, 1978

MEMORANDUM FOR:

RICK HUTCHESON

FROM:

NELSON CRUIKSHANK



SUBJECT:

Secretary Marshall's Memo
Concerning Proposed Changes
in Social Security Benefits

It is extremely important that the President have Secretary Ray Marshall's comments before final decisions are made with respect to the proposed cuts in Social Security benefits for budget purposes.

As noted in the Secretary's memo, he is by law one of the trustees of the Social Security trust fund but he has not been consulted about these proposed changes. As Secretary of Labor he reflects the interest of the working people of the country who support the system by their payroll taxes and who look forward to the protection of their incomes in retirement or in the case of disability or death.

Changes in the Social Security benefit structure as proposed by HEW/OMB have an impact on private pension plans. The Secretary of Labor has the responsibility for the Federal Government's oversight of private pension plans.

It is my opinion, for these and other reasons, that it is unwise policy to develop Administration position with respect to Social Security financing and benefits on the unilateral recommendation of one department without taking into account the interest and responsibilities of another department. I agree that the administration of Social Security is lodged in HEW but the clear intent of Congress to recognize the interest of other departments (Labor and Treasury) is reflected in the statutes that create the trust fund trustees including all three departments.

THE WHITE HOUSE

WASHINGTON

Date: Dec 26, 1978

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Jim McIntyre
Charlie Schultze
✓ Nelson Cruikshank

FOR INFORMATION:

Vice President
Frank Moore (LesFrancis)
Jack Watson
Alfred Kahn

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TO THE STAFF SECRETARY BY:

TIME: 12 noon

DAY: Thursday

DATE: Dec 28

ACTION REQUESTED:

☒ Your comments
Other:

STAFF RESPONSE:

☐ I concur. ☐ No comment.
Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

DEC 22 1978

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ID 786100

THE WHITE HOUSE
WASHINGTON

DATE: 06 DEC 78

FOR ACTION: SECRETARY BLUMENTHAL

STU EIZENSTAT

FRANK MOORE (LES FRANCIS)

JIM MCINTYRE

CHARLIE SCHULTZE

ALFRED KAHN

INFO ONLY: THE VICE PRESIDENT

JACK WATSON

ANNE WEXLER

SUBJECT: CALIFANO MEMO RE TAXATION OF CERTAIN PORTION OF SOCIAL
SECURITY PAYMENTS

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM MONDAY 11 DEC 78 +
+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

Edley
12/11 AM 12/22
EPG memo

attached

attached

will comment

11/21 - 11/22 - 11/23
Don't know

Joint memo from Blue, e Schultze & Kahn late this pm - after EPG mtg

EPG memo exp. Mon. - Tues

Thurs mtg - sometime 1-2 weeks?

THE WHITE HOUSE
WASHINGTON

Rick/Bill

Please hold

12/14 PM

Calfano memo

com:ag

(taxation of SS)

for a couple of hrs

for Jim McIntyre.

M.



THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

December 5, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: JOE CALIFANO *Joe Califano*
SUBJECT: TAXATION OF CERTAIN PORTION OF SOCIAL
SECURITY PAYMENTS

To move toward your deficit target for fiscal 1980-81, I recommend that we tax that portion of social security payments on which no tax has been previously paid. The tax would apply only to individuals who have an annual gross income in excess of \$20,000 per year, or couples who have an annual gross income in excess of \$25,000 per year.

Presently, an individual's own payroll tax payments generally average about 8 percent, and at most 18 to 20 percent, of the social security benefits he or she can expect to receive. Benefit payments in excess of the individual's contribution represent, in effect, employers' contributions that have been deducted from income tax and interest earned that has never been taxed. These amounts truly represent income that is properly subject to income tax.

Private and public employee pension payments are taxed to the extent they exceed the employee's contribution.

Last year, the Administration proposed, and the Congress adopted, a plan to tax unemployment compensation on the same theory. Social security benefits are the major government payments not subject to any taxation.

Specifically, my proposal would:

- o As noted, tax no one's social security benefits until annual gross income exceeded thresholds of \$20,000 for individuals and \$25,000 for couples. These are identical to the unemployment insurance thresholds established in the 1978 Tax Act.

- o Increase fiscal 1980 unified budget revenues by about \$400 million and add revenues of more than \$1 billion annually thereafter.
- o Subject to taxation a maximum of 75 percent of the social security benefit when income exceeds the thresholds. (In effect, this credits the individual with having paid for 25 percent of his benefit.)
- o Use a phasing-in mechanism identical to the unemployment insurance mechanism, so that no "notch" is created by the thresholds. (This mechanism taxes very little of the benefit of persons just over the threshold, phasing up the proportion of the amount taxed as the threshold is exceeded, e.g., the full amount would be taxed only in excess of \$25,000 to \$30,000 depending on a number of factors.)
- o Transfer all tax revenues derived from taxing social security benefits to the social security trust funds--a payroll tax recycling mechanism.

Justification

I believe that a proposal to tax the untaxed portion of social security benefits received by high income individuals represents good social and tax policy.

- o It is entirely consistent with present income tax provisions (including the retirement income credit and the disability income exclusion).
- o It taxes only the benefits of higher income individuals--and redistributes the tax income to help finance the social security benefits of all individuals.
- o It would affect only about 1.5 million high-income tax filing units--less than five percent of the more than thirty-four million social security beneficiaries.

The President
December 5, 1978
Page 3

Most important, the political climate may now be more congenial to a benefit taxation proposal than at any time in the past.

- o Congressional enactment of the unemployment insurance taxation proposal was precedent-setting.
- o Only high income individuals would be taxed, and the proceeds of the tax could be devoted to high priority concerns of the Congress, the aged, and the general populace.

Proposals to tax benefits have recently been advanced by highly respected social security advocates. Bob Ball's proposal, for example, would go much farther than this proposal, by taxing the social security benefits of all individuals who are subject to the income tax. The Ball proposal, in my mind, goes too far and would precipitate the kind of adverse reaction that my proposal is designed to avoid.

The principal arguments against the proposal are that it would raise income taxes, upset the beneficiary groups to have any benefits subjected to income tax, and might make social security less of an insurance program. While there is something to these points, on balance, I believe this proposal is a sound and equitable one, and strongly recommend that you adopt it.

We have talked with Treasury staff (Stan Ross has been in close touch with Don Lubick), and Stu Eizenstat and the EPG are interested in this proposal.

Without you making a final decision, I would like your approval to pursue this proposal aggressively within the Government and check it out on the Hill.

APPROVE _____

DISAPPROVE _____



THE SECRETARY OF THE TREASURY
WASHINGTON 20220

December 8, 1978

MEMORANDUM TO THE PRESIDENT

Subject: Secretary Califano's Proposal to Tax Social Security Benefits

In principle, Secretary Califano's proposal to tax social security benefits represents sound tax policy. However, in our view there are political and economic considerations which argue strongly against such a proposal at this time.

Political Considerations

1. In the summer of 1977, in preparing your 1978 tax reform program, Mike and others working on the tax proposals explored with various members of the Congress the possibility of taxing social security benefits. The idea was found to be totally unacceptable at that time, and you agreed that it should not be proposed. There is no reason to believe that the climate has changed. This proposal, in our view, has virtually no chance of success.

2. Secretary Califano uses the thresholds established in the 1978 Revenue Act for taxing unemployment compensation--income of \$20,000 for single persons and \$25,000 for couples--as the basis for taxing social security benefits. However, in the markup sessions on the tax bill in response to specific requests, Treasury pledged absolutely to the tax writing committees that we would not regard the taxation of unemployment compensation as a precedent for taxing social security.

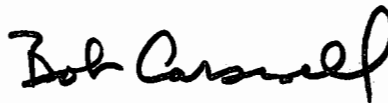
3. Current thinking on the tax writing committees is to attempt to develop a balanced program by matching future payroll tax reductions with benefit reductions. This proposal departs from a balanced approach of this kind.

Economic Considerations

1. Transferring revenues derived from taxing social security benefits to the social security trust fund represents unwise budget policy. If general revenue financing of social security is desired, it should be accomplished directly rather than through earmarking income taxes derived from specified sources of income. Further, the budgetary goal of reducing the overall deficit is not attained by using income tax revenues to reduce payroll taxes paid into the Social Security Trust Fund.

2. From a purely tax reform perspective, the general taxation of the elderly and the disabled should be considered along with a proposal to tax social security benefits. Otherwise, we run the risk of subjecting elderly and disabled taxpayers to a baffling array of separate tax rules. However, a comprehensive approach represents a major tax reform commitment and the careful building of a constituency for reform. Further, any comprehensive recommendations should await the report of your Retirement Policy Commission.

Finally, if there are to be any soundings taken on the Hill regarding the taxation of social security benefits as a tax reform measure, I would suggest that--particularly in view of the history of prior consultation on this subject--Treasury conduct any new consultations.

A handwritten signature in black ink, reading "Bob Carswell". The signature is fluid and cursive, with the first name "Bob" and last name "Carswell" clearly distinguishable.

Robert Carswell
Acting Secretary

ED 70310

THE WHITE HOUSE
WASHINGTON

DATE: 06 DEC 78

FOR ACTION: SECRETARY BLUMENTHAL

STU EIZENSTAT

FRANK MOORE (LES FRANCES)

JIM MCINTYRE

CHARLIE SCHULTZE

ALFRED KAHN

INFO ONLY: THE VICE PRESIDENT

JACK WATSON

ANNE WEXLER

SUBJECT: CALIFANO MEMO RE TAXATION OF CERTAIN PORTION OF SOCIAL
SECURITY PAYMENTS

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY 1200 PM MONDAY 11 DEC 78 +

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW

Cable agrees with Califano's suggestion that it ~~be~~ *should be*
pursued further within the Government and on the Hill
before a final decision is made.

1/25/80
Xc: HK
SL
PMC
Ronna
Lisa, be
sure
Cable's comments



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 11 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. McIntyre, Jr. *Jim*

SUBJECT: Taxation of Certain Social Security Payments

While I am in agreement with Secretary Califano's general proposition that the taxation of social security payments would be a sensible tax reform measure, I have substantial reservations about the proposal as presented in his memorandum.

First, and most important from a budgetary viewpoint, the proposal to transfer all tax revenues derived from taxing social security benefits to the social security trust funds is poor budgetary policy and not acceptable to OMB. The earmarking of estimated receipts from a specific component of the tax base for specific budget outlays would significantly reduce the flexibility of budget policy. In particular, it would establish a special claim on the general revenues for certain budget programs, and therefore make it much more difficult to undertake programmatic changes in the future if that is appropriate. While I recognize that a severe financial constraint exists for the social security trust funds, I do not believe that earmarking the estimated receipts from particular parts of the tax base is an appropriate solution to this problem.

Second, from the point of view of tax policy, there is the question of consistency between Secretary Califano's proposal and the treatment of disability income, death benefits, and the income of social security recipients under current law. The taxation of social security payments raises much larger problems of consistency than did the recently enacted taxation of unemployment compensation benefits, which Secretary Califano cites as a precedent for his proposal. I believe the Administration should consider

very carefully the way in which the taxation of social security payments would impact upon other income tax provisions from the standpoint of the horizontal equity of the tax system. Secretary Califano's proposal does not address these issues. We should have a proposal which has been carefully constructed to reflect these concerns before proceeding any further.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 11 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. McIntyre, Jr. (Signed) | Jim

SUBJECT: Taxation of Certain Social Security
Payments

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very carefully the way in which the taxation of social security payments would impact upon other income tax provisions from the standpoint of the horizontal equity of the tax system.

Finally, the tax increase involved in this proposal would probably be politically viable only in the context of overall tax reduction, which will be necessary at some time in the future as individual tax burdens increase. I therefore recommend that consideration of the taxation of social security benefits be deferred until such time as it is appropriate to propose a tax package resulting in net tax reduction, and that it be considered at that time as part of a broader reform initiative addressing in a consistent manner the taxation of the elderly and disabled.

DECISION

Agree

☐

Disagree

☐

Other

☐



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

December 15, 1978

MEMORANDUM FOR: THE PRESIDENT

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SUBJECT: Taxation of Certain Social Security Payments

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DECISION

Agree ☐

Disagree ☐

Other ☐



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

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DECISION

Agree ☐

Disagree ☐

Other ☐



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OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

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First, and most important from a budgetary viewpoint, the proposal to transfer all tax revenues derived from taxing social security benefits to the social security trust funds is poor budgetary policy and not acceptable to OMB. The earmarking of estimated receipts from a specific component of the tax base for specific budget outlays would significantly reduce the flexibility of budget policy. In particular, it would establish a special claim on the general revenues for certain budget programs, and therefore make it much more difficult to undertake programmatic changes in the future if that is appropriate. While I recognize that a financial constraint exists for the social security trust funds, I do not believe that earmarking the estimated receipts from particular parts of the tax base is an appropriate solution to this problem.

Second, from the point of view of tax policy, there is the question of consistency between Secretary Califano's proposal and the treatment of disability income, death benefits, and the income of social security recipients under current law. The taxation of social security payments raises much larger problems of consistency than did the recently enacted taxation of unemployment compensation benefits, which Secretary Califano cites as a precedent for his proposal. I believe the Administration should consider

very carefully the way in which the taxation of social security payments would impact upon other income tax provisions from the standpoint of the horizontal equity of the tax system.

Finally, the tax increase involved in this proposal would probably be politically viable only in the context of overall tax reduction, which will be necessary at some time in the future as individual tax burdens increase. I therefore recommend that consideration of the taxation of social security benefits be deferred until such time as it is appropriate to propose a tax package resulting in net tax reduction, and that it be considered at that time as part of a broader reform initiative addressing in a consistent manner the taxation of the elderly and disabled.

DECISION

Agree

☐

Disagree

☐

Other

☐



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

December 15, 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. McIntyre, Jr. *J. McIntyre*

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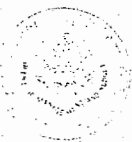
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Agree ☐

Disagree ☐

Other ☐



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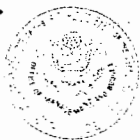
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DECISION

Agree	<input type="checkbox"/>
Disagree	<input type="checkbox"/>
Other	<input type="checkbox"/>



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DECISION

Agree

☐

Disagree

☐

Other

☐

THE WHITE HOUSE

WASHINGTON

DATE: 05 FEB 79

FOR ACTION:

INFO ONLY: SARAH WEDDINGTON

SUBJECT: ATTORNEY GENERAL BELL MEMO RE WOMEN AND JUDGESHIP

Bill - check w/ Sarah & see if she thinks is worth the press reading anything he believed known?

+++++

+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: +

+++++

Probably nothing new - will compare 2/22 - Sarah to call him

ACTION REQUESTED:

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

Bill

SPECIAL ASSISTANT TO
THE ATTORNEY GENERAL



2/2/79

Rick —

Not a high priority,
but AG does think
President would be
interested —

Phil Jordan

FOR STAFFING

FOR INFORMATION

FROM PRESIDENT'S OUTBOX

LOG IN/TO PRESIDENT TODAY

IMMEDIATE TURNAROUND

NO DEADLINE

LAST DAY FOR ACTION

ACTION

FYI

*maybe
for
summary*

ADMIN CONFIDENTIAL

CONFIDENTIAL

SECRET

EYES ONLY

VICE PRESIDENT

JORDAN

EIZENSTAT

KRAFT

LIPSHUTZ

MOORE

POWELL

RAFSHOON

WATSON

WEXLER

BRZEZINSKI

MCINTYRE

SCHULTZE

ADAMS

ANDRUS

BELL

BERGLAND

BLUMENTHAL

BROWN

CALIFANO

HARRIS

KREPS

MARSHALL

SCHLESINGER

STRAUSS

VANCE

ARAGON

BUTLER

H. CARTER

CLOUGH

CRUIKSHANK

FALLOWS

FIRST LADY

GAMMILL

HARDEN

HUTCHESON

LINDER

MARTIN

MOE

PETERSON

PETTIGREW

PRESS

SANDERS

VOORDE

WARREN

WISE

1 wedding ton



Office of the Attorney General
Washington, D. C. 20530

February 1, 1979

MEMORANDUM FOR THE PRESIDENT

RE: Women and Judgeships

The attached speech by the Solicitor General is an excellent summary of the historical background to the problems we are having in finding women for judicial vacancies. The speech is also quite complimentary of your efforts in this area.

Respectfully,

Griffin B. Bell
Attorney General

AN ADDRESS TO THE
WOMEN'S ECONOMIC CLUB OF DETROIT, MICHIGAN
DETROIT, MICHIGAN

"FROM SYMBOL TO SUBSTANCE: WOMEN IN THE JUDICIARY"

WADE H. MCCREE, JR.

JANUARY 23, 1979

AN ADDRESS TO THE
WOMEN'S ECONOMIC CLUB OF DETROIT, MICHIGAN
JANUARY 23, 1979

"FROM SYMBOL TO SUBSTANCE: WOMEN IN THE JUDICIARY"

THE TRADITIONAL DEPICTION OF JUSTICIA, THE ROMAN GODDESS OF JUSTICE, IS AS A BLINDFOLDED WOMAN HOLDING ALOFT A PAIR OF EVENLY BALANCED SCALES. HER IMAGE ADORNS MANY COURTHOUSES IN AMERICA, YET VERY FEW OF THE COURTS HOUSED IN THEM ARE PRESIDED OVER BY WOMEN JUDGES, AND THE VERY SCALES OF JUSTICE SEEM TO HAVE BEEN WEIGHTED AGAINST WOMEN, NOT ONLY IN THE MATTER OF JUDICIAL SELECTION BUT EVEN IN THE QUEST OF PERSONHOOD ITSELF.

WHEN I ENTERED LAW SCHOOL IN 1941, I KNEW OF ONLY TWO WOMEN JUDGES. ONE WHO RETIRED THIS MONTH, WAS JUDGE JANE BOLIN WHO HAD BEEN APPOINTED IN 1939 BY NEW YORK MAYOR FIORELLO LA GUARDIA TO THE NEW YORK DOMESTIC RELATIONS COURT, AND THE OTHER WAS JUDGE FLORENCE ALLEN, WHOM PRESIDENT FRANKLIN ROOSEVELT HAD APPOINTED TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT IN 1934. (I WAS NOT AT THAT TIME ACQUAINTED WITH JUDGE LILA M. NEUENFELT, WHO WAS ELECTED IN 1941 TO THE WAYNE COUNTY, MICHIGAN CIRCUIT COURT AFTER HAVING SERVED AS A MUNICIPAL JUDGE IN DEARBORN. AND IF I HAD BEEN, I WOULD NEVER HAVE GUESSED THAT I WOULD ONE DAY SERVE WITH

HER ON THAT COURT ANYMORE THAN I WOULD HAVE GUESSED THAT I WOULD SERVE ON JUDGE ALLEN'S COURT 25 YEARS LATER.)

MORE APPALLING TO ME THAN THE PAUCITY OF WOMEN JUDGES, WAS MY INTRODUCTION TO COMMON LAW CONCEPTS LIKE COVERTURE, THE LEGAL STATUS THAT A WOMAN ASSUMED UPON MARRIAGE. IT GAVE HER HUSBAND CONTROL OF HER BUSINESS AFFAIRS, HER PRIVATE PROPERTY, REAL AND PERSONAL, AND EVEN OF HER PERSON. THIS SUBORDINATE STATUS OF WOMEN HAD MANY OTHER MANIFESTATIONS. IF SHE COMMITTED A TORT IN THE PRESENCE OF HER HUSBAND, HE WAS PRESUMED TO HAVE COERCED HER, AND IF SOMEONE INJURED HER, HIS REMEDY WAS TO SECURE A WRIT SIMILAR TO THE ONE EMPLOYED FOR REDRESSING HARM TO A SERVANT. IN SHORT, AS ONE OF MY PROFESSORS WHO IS WIDELY BELIEVED TO BE THE REAL-LIFE MODEL OF THE AUTOCRATIC TEACHER IN THE PAPER CHASE SAID, "AT COMMON LAW, HUSBAND AND WIFE WERE ONE, AND HE WAS IT."

THIS DEPRECIATIVE VIEW OF THE WORTH OF WOMEN WAS MANIFESTED IN YET ANOTHER SIGNIFICANT WAY. WOMEN WERE ALSO CONSPICUOUS BY THEIR ABSENCE IN THE NATION'S LAW SCHOOLS. HARVARD LAW SCHOOL DID NOT ADMIT WOMEN DURING MY SCHOOL YEARS. IN FACT, IT WAS NOT UNTIL 1950 THAT THE FIRST WOMAN WAS MATRICULATED THERE ALTHOUGH I AM PERSONALLY ACQUAINTED WITH ONE WOMAN WHO COMMENCED A LAWSUIT IN AN ATTEMPT TO INTEGRATE THE STUDENT BODY. ELEVEN WOMEN COMPRISED THE FIRST GRADUATES OF THEIR SEX 3 YEARS LATER. IN 1977, THERE WERE 131 WOMEN WHO RECEIVED DEGREES.

THE DEARTH OF FEMALE LAW STUDENTS WAS AS MUCH A CONSEQUENCE OF THE FORMAL EXCLUSION OF WOMEN BY MANY LAW SCHOOLS AS IT WAS THE RESULT OF THE REJECTION OF WOMEN BY A PROFESSION THAT WAS DEFENSIVELY MASCULINE. IT WAS NOT UNCOMMON TO HEAR MALE LAWYERS SAY THAT THEY FELT UNCOMFORTABLE WHEN THEY HAD A FEMALE OPPONENT IN COURT, AND MANY LAW OFFICES, A FEW DECADES AGO, INSURED THAT THIS CONFRONTATION WOULD BE A RARE OCCURRENCE BY RELEGATING THE RARE WOMAN LAWYER TO HANDLING WILLS AND TRUST AGREEMENTS OR TO THE EXAMINATION OF LAND TITLES.

THE HISTORICAL EXCLUSION OF WOMEN BY LAW SCHOOLS WAS MORE WIDESPREAD THAN AN UNINFORMED PERSON MIGHT SUSPECT. YALE LAW SCHOOL, FROM WHICH JUDGE BOLIN AND MANY OTHER WOMEN WHO EARNED EARLY RECOGNITION IN THE LAW GRADUATED, DID NOT OPEN ITS DOORS UNTIL 1918, AT THE CLOSE OF WORLD WAR I. (ACTUALLY YALE ADMITTED ALICE JORDAN IN 1865 BUT IN 1890 IT RESCINDED THE POLICY). HARVARD, ITS IVY LEAGUE COMPANION, WAS A GENERATION BEHIND YALE, ADMITTING ITS FIRST WOMAN IN 1950, FIVE YEARS AFTER THE END OF WORLD WAR II. AMONG OTHER FIRST ADMISSION DATES ARE COLUMBIA, 1929, NOTRE DAME, 1969, AND LAST OF ALL, WASHINGTON AND LEE, 1972. MICHIGAN LAW SCHOOL, A PUBLIC INSTITUTION HAD A BETTER RECORD THAN PRIVATE SCHOOLS. IT GRADUATED ITS FIRST WOMEN IN 1971.

THE INTERSECTION OF THE STRUGGLE TO BE FREE FROM DISCRIMINATION ON THE BASIS OF SEX AND THE FIGHT AGAINST RACIAL DISCRIMINATION IS ILLUSTRATED BY THE FOLLOWING VIGNETTE. IN 1896, TWO WHITE WOMEN RESIDENTS OF WASHINGTON, D. C., ONE THE WIFE OF A PROMINENT BANKER, AFTER HAVING BEEN REFUSED

ADMISSION TO THE LAW SCHOOLS IN THE NATION'S CAPITAL ATTENDED EXCLUSIVELY BY WHITE MALES, APPLIED TO THE LAW SCHOOL OF HOWARD UNIVERSITY, AN INSTITUTION FOUNDED PRIMARILY FOR THE EDUCATION OF RECENTLY EMANCIPATED BLACK PEOPLE. THE WOMEN WERE ACCEPTED, AND, AFTER GRADUATION AND ADMISSION TO THE BAR, FOUNDED THEIR OWN LAW SCHOOL WITH A POLICY OF ADMITTING WOMEN. REGRETTABLY, LIKE THE OTHER WASHINGTON LAW SCHOOLS EXCEPT HOWARD, IT ALSO EXCLUDED NEGROES. THIS LAW SCHOOL SURVIVES TODAY AS THE WASHINGTON COLLEGE OF LAW OF AMERICAN UNIVERSITY, BUT NOW, LIKE ALL WASHINGTON LAW SCHOOLS, IT HAS BECOME ENLIGHTENED AND ADMITS BOTH BLACK AND FEMALE APPLICANTS.

ONE MORE COLORFUL PATCH IN THE CRAZY-QUILT OF SEX DISCRIMINATION IS THE PHENOMENON OF PORTIA LAW SCHOOL FOUNDED IN BOSTON, MASSACHUSETTS, AND NAMED FOR BASSANIO'S LAWYER IN SHAKESPEARE'S MERCHANT OF VENICE. IT EDUCATED WOMEN FOR THE LAW UNTIL AFTER WORLD WAR II, WHEN, AIDED BY THE SO-CALLED G. I. EDUCATION BENEFITS, IT FIRST ACCEPTED MALE VETERANS WHO APPLIED, AND LATER BECAME FULLY COEDUCATIONAL WHEN IT MERGED WITH ANOTHER BOSTON LAW SCHOOL.

THE LAW SCHOOLS THAT ADMITTED WOMEN AS STUDENTS HAD RELATIVELY FEW FEMALE APPLICANTS. MOST WOMEN LAWYERS TODAY WHO HAVE PRACTICED A DOZEN YEARS OR MORE CAN RECALL BEING THE ONLY WOMAN IN MANY OF THEIR LAW CLASSES.

IN THE TIME REMAINING, I INTEND TO FOCUS ON THE FEDERAL COURT SYSTEM TO DEMONSTRATE HOW THE HISTORICAL SHORTAGE OF WOMEN LAWYERS IS A PRINCIPAL FACTOR IN EXPLAINING THE PAUCITY OF WOMEN JUDGES.

TODAY, THERE ARE ONLY 11 FEMALE FEDERAL JUDGES, 10 DISTRICT JUDGES OUT OF 428, AND ONLY ONE CIRCUIT JUDGE OUT OF 97. AN ENCOURAGING TREND, HOWEVER, IS EVIDENT WHEN ONE CONSIDERS THAT 6 OF THE 11 ACTIVE WOMEN JUDGES, MORE THAN HALF, HAVE BEEN APPOINTED IN THE LAST 24 MONTHS, SINCE THE BEGINNING OF THE CARTER ADMINISTRATION, AND THAT LAST FRIDAY, PHYLLIS KRAVITCH WAS NOMINATED TO A VACANCY ON THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT. HER APPOINTMENT WILL RESULT IN A DOUBLING OF THE NUMBER OF WOMEN SERVING IN THAT CAPACITY. THERE IS ALSO GOOD REASON TO EXPECT THE EARLY NOMINATION TO THE DISTRICT COURT OF ANOTHER WOMAN FROM MICHIGAN.

PRIOR TO THIS ADMINISTRATION, THERE HAD BEEN ONLY 7 FEMALE FEDERAL JUDGES. THE FIRST WAS FLORENCE ALLEN OF CLEVELAND WHOM PRESIDENT ROOSEVELT APPOINTED IN 1934 TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT. JUDGE ALLEN WAS A DISTINGUISHED JUDGE AMONG WHOSE LEADING OPINIONS WAS THE FIRST DECISION UPHOLDING THE CONSTITUTIONALITY OF THE TENNESSEE VALLEY AUTHORITY. IN 1959, SHE BECAME THE FIRST AND REMAINS THE ONLY WOMAN TO HAVE SERVED AS CHIEF JUDGE OF A UNITED STATES COURT OF APPEALS. JUDGE ALLEN DIED IN 1966. THE FIRST WOMAN TO BE APPOINTED TO A UNITED STATES

DISTRICT COURT WAS BURNITA SHELTON MATTHEWS, WHO WAS APPOINTED TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA BY PRESIDENT HARRY TRUMAN IN 1950. JUDGE MATTHEWS IS NOW, TO EMPLOY THE FEDERAL EUPHEMISM FOR RETIRED, A SENIOR JUDGE. SARA HUGHES, OF TEXAS, THE DISTRICT JUDGE WHO ADMINISTERED THE PRESIDENTIAL OATH TO LYNDON B. JOHNSON, WAS APPOINTED IN 1962 AND IS NOW, LIKE JUDGE MATTHEWS, A SENIOR JUDGE. THE ACTIVE WOMEN FEDERAL JUDGES WHO PRECEDED THE CURRENT ADMINISTRATION ARE DISTRICT JUDGES CONSTANCE BAKER MOTLEY OF THE SOUTHERN DISTRICT OF NEW YORK (1966), JUNE GREEN OF THE DISTRICT OF COLUMBIA (1968), DETROIT'S OWN CORNELIA KENNEDY, CHIEF JUDGE OF THE EASTERN DISTRICT OF MICHIGAN (1970), AND MARY ANN RICHEY OF ARIZONA (1976). THE ONLY WOMAN JUDGE SERVING ON THE UNITED STATES COURT OF APPEALS IS SHIRLEY HUFSTEDLER, WHO WAS APPOINTED TO THE NINTH CIRCUIT IN 1968.

IN THE FIRST 24 MONTHS OF HIS ADMINISTRATION, PRESIDENT CARTER HAS ALREADY APPOINTED MORE WOMEN TO THE FEDERAL BENCH THAN HE FOUND THERE UPON TAKING OFFICE. THEY ARE MARY JOHNSON LOWE, TO THE SOUTHERN DISTRICT OF NEW YORK (1978), ELSIJANE ROY TO THE EASTERN AND WESTERN DISTRICTS OF ARKANSAS (1977), PATRICIA BOYLE TO THE EASTERN DISTRICT OF MICHIGAN (1978); NORMA SHAPIRO TO THE EASTERN DISTRICT OF PENNSYLVANIA (1978), MARIANA PFAELZER TO THE CENTRAL DISTRICT OF CALIFORNIA (1978), AND ELLEN B. BURNS TO THE

DISTRICT OF CONNECTICUT (1978).

THE ABILITY OF A PRESIDENT TO APPOINT A JUDGE DEPENDS UPON A NUMBER OF FACTORS, THE MOST OBVIOUS OF WHICH IS A VACANT SEAT. TO DATE, PRESIDENT CARTER HAS HAD FEW VACANCIES AND NONE AT ALL ON THE SUPREME COURT WHERE FORMER PRESIDENT FORD HAD ONE; PRESIDENT NIXON, FOUR; PRESIDENT JOHNSON, ONE; PRESIDENT KENNEDY ONE (EXTANT); AND PRESIDENT EISENHOWER, TWO. THEN, THERE ARE THE POLITICAL CONSIDERATIONS AFFECTING APPOINTMENTS. THE CONSTITUTION PROVIDES THAT THE PRESIDENT SHALL APPOINT JUDGES BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. IN HISTORICAL PRACTICE, THIS HAS MEANT THAT THE SENATOR OR SENATORS OF THE PARTY OF THE PRESIDENT AND IN WHOSE STATE A JUDICIAL VACANCY OCCURRED, WOULD SUGGEST A NOMINEE WHO WOULD ORDINARILY BE APPOINTED BY THE PRESIDENT UNLESS ANOTHER SENATOR FOUND HIM PERSONALLY UNACCEPTABLE. PRESIDENT CARTER IS THE FIRST PRESIDENT TO TAKE STEPS TO CHANGE THIS PROCEDURE THAT IN ALMOST TWO HUNDRED YEARS, PRODUCED ONLY 14 WOMEN JUDGES. HE WAS ABLE TO PERSUADE THE SENATE TO PERMIT JUDICIAL NOMINATING COMMISSIONS CONSISTING OF 11 PERSONS, LAY AND LEGAL, FEMALE AND MALE, MAJORITY AND MINORITY, WHICH HE WOULD APPOINT BY EXECUTIVE ORDER IN EACH JUDICIAL CIRCUIT, TO PROPOSE 5 PERSONS FOR EACH JUDICIAL VACANCY THAT SHOULD OCCUR ON THE COURT OF APPEALS OF THAT CIRCUIT. THE COMMISSIONS ARE EXPRESSLY CHARGED AFFIRMATIVELY

TO SEEK OUT QUALIFIED FEMALE AND MINORITY NOMINEES. THREE MEMBERS OF THE 11 PERSONS OF THE JUDICIAL NOMINATING COMMITTEE FOR THE SIXTH CIRCUIT THAT INCLUDES MICHIGAN, OHIO, KENTUCKY AND TENNESSEE ARE FROM DETROIT. THEY ARE FORMER CONGRESSWOMAN (AND FORMER RECORDER AND RECORDER'S JUDGE) MARTHA GRIFFITHS, UAW PRESIDENT DOUGLAS FRASER AND MAYOR COLEMAN YOUNG. NATIONWIDE, 40 PERCENT OF THE PANELISTS ARE WOMEN.

THE SENATORS WHO ACCEPTED MODIFICATION OF THE METHOD OF SELECTING CIRCUIT JUDGES WERE UNWILLING TO GIVE UP THEIR HISTORICAL PREROGATIVE TO PROPOSE DISTRICT JUDGES, AND THE PRESIDENT'S EXECUTIVE ORDER DOES NOT AFFECT THE METHOD OF THEIR SELECTION. NEVERTHELESS, MANY SENATORS AGREED TO APPOINT DISTRICT COURT NOMINATING COMMISSIONS TO RECOMMEND DISTRICT JUDGES FOR THEIR CONSIDERATION FOR PROPOSAL TO THE PRESIDENT. SENATOR REIGLE, MICHIGAN'S SENIOR SENATOR, HAS APPOINTED SUCH A COMMITTEE, AND OF THE FIRST TWO DISTRICT COURT APPOINTEES SINCE ITS ESTABLISHMENT, ONE IS A WOMAN, FORMER RECORDER'S JUDGE PATRICIA BOYLE. MICHIGAN THEREBY BECAME THE ONLY STATE BESIDE NEW YORK WITH TWO WOMEN DISTRICT JUDGES, AND IT SOON MAY PASS NEW YORK UPON THE APPOINTMENT OF ANOTHER OF THE NOMINEES OF SENATOR RIEGLE'S COMMISSION, ANNA DIGGS TAYLOR.

THE FULL EFFECT OF THE NEW PROCEDURE WILL BECOME EVIDENT WHEN THE OMNIBUS JUDGE BILL OF 1978 IS IMPLEMENTED DURING 1979. THIS BILL HAS CREATED 117 NEW DISTRICT JUDGEShips AND 35 NEW CIRCUIT JUDGEShips. OMNIBUS, OF COURSE, MEANS "FOR EVERYBODY" AND IT REMAINS TO BE SEEN WHETHER THIS OMNIBUS BILL WILL BE ALL-INCLUSIVE IN OPERATION. THIS IS NOT THE ONLY LEGISLATION IN RECENT YEARS THAT HAS CREATED A NUMBER OF ADDITIONAL JUDGEShips. IN 1966, THE CONGRESS CREATED 63 NEW DISTRICT AND 10 CIRCUIT JUDGEShips. ONLY ONE WOMAN JUDGE WAS APPOINTED WHEN THAT LEGISLATION TOOK EFFECT. IN 1966, 27 DISTRICT AND 8 CIRCUIT JUDGEShips WERE ADDED. THREE WOMEN WERE THEREAFTER APPOINTED. FINALLY, IN 1970, 61 DISTRICT AND 9 CIRCUIT JUDGEShips WERE COMMISSIONED, AND IN THE WAKE OF THIS ACT, ONLY TWO WOMEN WERE APPOINTED. TO DATE 14 PERCENT OF PRESIDENT CARTER'S DISTRICT COURT APPOINTMENTS HAVE BEEN WOMEN COMPARED WITH 1.9 PERCENT OF PRESIDENT FORD'S, 0.6 PERCENT OF NIXON'S AND 1.6 PERCENT OF JOHNSON'S.

THIS REPRESENTS A GIANT STEP BY COMPARISON BUT IT MUST BE REGARDED AS JUST A BEGINNING. ONE OBVIOUS EXPLANATION FOR THE DEARTH OF APPOINTMENTS OF WOMEN IS FOUND IN THEIR NUMBERS AND EXPERIENCE IN THE PROFESSION. FORTUNATELY, THIS CONDITION HAS IMPROVED DRAMATICALLY AND WILL CONTINUE TO DO SO. THERE ARE NOW ALMOST 40,000 FEMALE LAWYERS IN THE COUNTRY, AND THE RATE OF INCREASE GROWS WITH THE INCREASE IN

ABSOLUTE NUMBERS. THE AMERICAN ASSOCIATION OF LAW SCHOOLS ENUMERATED 21,000 FEMALE LAW STUDENTS (HALF THE NUMBER OF ACTIVE PRACTITIONERS TODAY) OUT OF A TOTAL SCHOOL POPULATION OF 110,000 IN 1974. IN 1977, THE NUMBER HAD INCREASED TO 32,000, UP ONE-THIRD, WHILE THE TOTAL ENROLLMENT WAS UP ONLY TO 118,000 AN INCREASE OF LESS THAN 7 PERCENT.

IT IS HELPFUL IN OUR EXPLORATION TO SEE WHENCE JUDGES TYPICALLY COME. IN THE FEDERAL SYSTEM, 10 PERCENT OF ALL DISTRICT JUDGES WERE UNITED STATES ATTORNEYS, 30 PERCENT WERE FORMER STATE JUDGES AND 19 PERCENT WERE FORMER STATE OR LOCAL OFFICIALS. THESE NATIONAL STATISTICS ARE VALIDATED IN THE MICHIGAN EXPERIENCES. JUDGE THORNTON, JUDGE KAESS, JUDGE GUBOW, AND JUDGE GUY WERE ALL UNITED STATES ATTORNEYS, AND JUDGES KENNEDY, PRATT, DEMASCIO, CHURCHILL AND BOYLE HAD BEEN STATE JUDGES.

ALMOST HALF OF ALL UNITED STATES CIRCUIT JUDGES HAD BEEN DISTRICT JUDGES OR STATE JUDGES. THIS STATISTIC IS ALSO VALIDATED BY SIXTH CIRCUIT EXPERIENCE WHERE FIVE OF THE NINE INCUMBENTS HAD BEEN JUDGES OF OTHER COURTS.

THIS PARALLELS THE NATIONAL EXPERIENCE IN THE RACIAL DESEGREGATION OF BASEBALL WHERE AFTER JACKIE ROBINSON IN 1947 BROKE THE CENTURY-OLD COLORLINE, ONLY A FEW BLACK PLAYERS LIKE LARRY DOBY, LUKE EASTER, ROY CAMPANELLA, DON NEUCOMBE, JOE BLACK AND AGELESS "SATCHELL" PAIGE HAD

THE REQUISITE CREDENTIALS TO PLAY IN THE MAJOR LEAGUES. IT TOOK A FEW YEARS FOR OTHER BLACK PLAYERS TO COME UP THROUGH THE MINOR LEAGUES, BUT IT HAPPENED, AND IT MUST BE DIFFICULT FOR ANYONE UNDER THIRTY TO ACCEPT THE FACT THAT OUR NATIONAL PASTIME WAS EVER MONOCHROMATIC.

IN 1910, WOMEN COMPRISED ONE PERCENT OF THE PROFESSIONS AND IN 1960, ONLY 3.5 PERCENT. WOMEN TODAY COMPRISE ABOUT 10 PERCENT OF ALL LAWYERS IN AMERICA AND MANY POSSESS THE PROFESSIONAL EXPERIENCE TO INTEGRATE OUR COUNTRY'S BAR AND BENCH.

WITHIN THE PAST TWO YEARS, THE PRESIDENT HAS APPOINTED FOUR WOMEN AS UNITED STATES ATTORNEYS: ROXANNE CONLIN IN THE SOUTHERN DISTRICT OF IOWA, VIRGINIA MCCARTY IN THE SOUTHERN DISTRICT OF INDIANA, ANDREA ORDIN IN THE CENTRAL DISTRICT OF CALIFORNIA (LOS ANGELES) AND JOAN F. KESSLER IN THE EASTERN DISTRICT OF WISCONSIN.

OTHER WOMEN CURRENTLY SERVING IN POSITIONS THAT ARE TRADITIONAL STEPPINGSTONES TO THE FEDERAL BENCH ARE THE THREE CHIEF JUSTICES OF THEIR RESPECTIVE STATES, SUSIE SHARP OF NORTH CAROLINA, ROSE BYRD OF CALIFORNIA, AND MICHIGAN'S OWN MARY COLEMAN. WOMEN SERVE AS ASSOCIATE JUSTICES ON THE HIGHEST COURTS OF OTHER STATES INCLUDING MASSACHUSETTS, WISCONSIN AND CONNECTICUT. TWO WOMEN SERVE AS ASSISTANT ATTORNEYS GENERAL IN THE DEPARTMENT OF JUSTICE.

MICHIGAN IS OUTSTANDING IN THE LEGAL ACCOMPLISHMENTS OF ITS WOMEN. IN ADDITION TO CHIEF JUSTICE MARY COLEMAN, THERE ARE TWO JUDGES ON THE COURT OF APPEALS, DOROTHY COMSTOCK RILEY AND BARBARA MCKENZIE; SEVERAL JUDGES ON THE CIRCUIT COURT, FOLLOWING IN THE WAKE OF JUDGE NEUENFELT INCLUDING FORMER CIRCUIT JUDGES ELZA PAPP AND CORNELIA KENNEDY, AND INCUMBENTS ALICE GILBERT, MAUREEN REILLY, HILDA GAGE, SUSAN BORMAN AND ZOE BURKHOLZ. OF COURSE, RETIRED CONGRESSWOMAN MARTHA GRIFFITHS SERVED AS RECORDER AND RECORDER'S COURT JUDGE IN 1953, AND GERALDINE BLEDSOE FORD WAS THE FIRST WOMAN TO BE ELECTED TO A FULL TERM ON THAT COURT IN 1966. SHE WAS FOLLOWED BY JUDGE BOYLE, NOW ON THE UNITED STATES DISTRICT COURT, JUDGE BORMAN, NOW ON THE STATE CIRCUIT COURT, AND JUDGES CLARICE JOBES, VERA MASSEY JONES AND EVELYN COOPER. ON THE COMMON PLEAS COURT OF DETROIT FROM WHICH JUDGE JESSIE SLATON HAS JUST RETIRED ARE JUDGES SHARON FINCH, THERESA DOSS, AND LUCILLE WATTS. JUDGE Y. GLADYS BARSAMIAN IS A PROBATE JUDGE IN WAYNE COUNTY. I WILL STOP SHORT OF NAMING STATE DISTRICT JUDGES, AND I APOLOGIZE IF I HAVE OVERLOOKED ANYONE IN THE CATEGORIES THAT I HAVE IDENTIFIED. ONE TEST OF EFFECTIVE PARTICIPATION IS TO BE REPRESENTED IN NUMBERS OF SUFFICIENT MAGNITUDE TO MAKE IT DIFFICULT FOR INDIVIDUAL RECOGNITION. IN PROOF OF THIS PROPOSITION, I CHALLENGE ANYONE TO NAME ALL THE BLACK BASEBALL PLAYERS TODAY.

THE EXAMPLE OF THE PEOPLE OF MICHIGAN CHALLENGES OTHER STATES TO EMULATION. THE PRESIDENT'S EXECUTIVE ORDER REQUIRES THAT BEFORE ANY RECOMMENDATION IS MADE TO HIM FOR A DISTRICT JUDGESHIP, THE ATTORNEY GENERAL SHALL CONSIDER WHETHER NOTICE OF THE AVAILABILITY OF THE POSITION HAS BEEN GIVEN, WHETHER THERE HAS BEEN AFFIRMATIVE ACTION TO IDENTIFY QUALIFIED CANDIDATES INCLUDING WOMEN AND PERSONS IDENTIFIED AS MINORITIES, WHETHER THE SELECTION PROCESS WAS FAIR AND REASONABLE, AND WHETHER THE PERSONS RECOMMENDED MEET THE STANDARDS OF MERIT SET FORTH IN THE ORDER.

THE IMPRESSIVE INVENTORY OF FEMALE LEGAL TALENT IN MICHIGAN WILL INSURE THAT PANELS OPERATING IN THIS STATE WILL HAVE A NUMBER OF QUALIFIED WOMEN TO CONSIDER FOR THE JUDICIAL POSITIONS. SOME PANELS IN SOME OTHER STATES HAVE PROFESSED AN INABILITY TO FIND QUALIFIED FEMALE CANDIDATES. THE DEPARTMENT OF JUSTICE IS DRAWING UP INVENTORIES OF WOMEN WITH JUDICIAL QUALIFICATIONS SO THAT THE PANELS CANNOT PLEAD ANY SHORTAGE OF CANDIDATES. AN ASSISTANT ATTORNEY GENERAL, WHO HAPPENS TO BE A WOMAN, HAS BEEN ENTRUSTED WITH THIS RESPONSIBILITY AND SHE HAS ADDRESSED THIS TASK WITH ENTHUSIASM AND IMAGINATION.

THE COINCIDENCE OF THE OMNIBUS BILL, THE POLICY OF THE PRESENT ADMINISTRATION AND THE HEIGHTENED CONCERN OF WOMEN'S ORGANIZATIONS AND OF OTHER GROUPS TO SEE THAT THE COURTS OF OUR NATION REFLECT IN A SIGNIFICANT WAY THE DIVERSITY OF OUR SOCIETY, PRESENTS AN UNPARALLELED OPPORTUNITY TO REDRESS TWO CENTURIES OF BIAS AND TO MAKE THE PARTICIPATION OF WOMEN IN THE ADMINISTRATION OF JUSTICE MORE THAN JUST A SYMBOL. THE EXTENT TO WHICH WE SUCCEED WILL DEPEND IN GREAT MEASURE UPON THE EFFORTS OF EACH OF US HERE TODAY.